

**ESSB 6582** - H COMM AMD

By Committee on Health Care & Wellness

ADOPTED AND ENGROSSED 2/28/2010

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.88A.010 and 1991 c 16 s 1 are each amended to read as follows:

(1) The legislature takes special note of the contributions made by nursing assistants in health care facilities whose tasks are arduous and whose working conditions may be contributing to the high and often critical turnover among the principal cadre of health care workers who provide for the basic needs of patients. The legislature also recognizes the growing shortage of nurses as the proportion of the elderly population grows and as the acuity of patients in hospitals and nursing homes becomes generally more severe.

(2) The legislature finds and declares that:

(a) Occupational nursing assistants should have a formal system of educational and experiential qualifications leading to career mobility and advancement. The establishment of such a system should bring about a more stabilized workforce in health care facilities, as well as provide a valuable resource for recruitment into licensed nursing practice.

~~((The legislature finds that))~~ (b) The quality of patient care in health care facilities is dependent upon the competence of the personnel who staff their facilities. To assure the availability of trained personnel in health care facilities the legislature recognizes the need for training programs for nursing assistants.

~~((The legislature declares that))~~ (c) Certified home care aides and medical assistants are a valuable potential source of nursing assistants who will be needed to meet the care needs of the state's growing aging population. To assure continued opportunity for recruitment into licensed nursing practice and career advancement for certified home care aides and medical assistants, nursing assistant

training programs should recognize the relevant training and experience obtained by these credentialed professionals. By taking advantage of the authority granted under the federal social security act to certify nursing assistants through a state-approved competency evaluation program as a federally recognized alternative to the state-approved training and competency evaluation program, the legislature intends to increase the potential for recruitment into licensed nursing practice while maintaining a single standard for competency evaluation of certified nursing assistants.

(d) The registration of nursing assistants and providing for voluntary certification of those who wish to seek higher levels of qualification is in the interest of the public health, safety, and welfare.

**Sec. 2.** RCW 18.88A.020 and 1994 sp.s. c 9 s 708 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of health.

(2) "Secretary" means the secretary of health.

(3) "Commission" means the Washington nursing care quality assurance commission.

(4) "Nursing assistant" means an individual, regardless of title, who, under the direction and supervision of a registered nurse or licensed practical nurse, assists in the delivery of nursing and nursing-related activities to patients in a health care facility. The two levels of nursing assistants are:

(a) "Nursing assistant-certified," an individual certified under this chapter( (7) ); and

(b) "Nursing assistant-registered," an individual registered under this chapter.

(5) "Approved training program" means a nursing assistant-certified training program approved by the commission to meet the requirements of a state-approved nurse aide training and competency evaluation program consistent with 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal social security act. For community college, vocational-technical institutes, skill centers, and secondary school as defined in chapter 28B.50 RCW,

nursing assistant-certified training programs shall be approved by the commission in cooperation with the board for community and technical colleges or the superintendent of public instruction.

(6) "Health care facility" means a nursing home, hospital, hospice care facility, home health care agency, hospice agency, or other entity for delivery of health care services as defined by the commission.

(7) "Competency evaluation" means the measurement of an individual's knowledge and skills as related to safe, competent performance as a nursing assistant.

(8) "Alternative training" means a nursing assistant-certified program meeting criteria adopted by the commission under section 3 of this act to meet the requirements of a state-approved nurse aide competency evaluation program consistent with 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal social security act.

**NEW SECTION. Sec. 3.** A new section is added to chapter 18.88A RCW to read as follows:

(1) The commission shall adopt criteria for evaluating an applicant's alternative training to determine the applicant's eligibility to take the competency evaluation for nursing assistant certification. At least one option adopted by the commission must allow an applicant to take the competency evaluation if he or she:

(a)(i) Is a certified home care aide pursuant to chapter 18.88B RCW; or

(ii) Is a certified medical assistant pursuant to a certification program accredited by a national medical assistant accreditation organization and approved by the commission; and

(b) Has successfully completed twenty-four hours of training that the commission determines is necessary to provide training equivalent to approved training on topics not addressed in the training specified for certification as a home care aide or medical assistant, as applicable. In the commission's discretion, a portion of these hours may include clinical training.

(2)(a) By July 1, 2011, the commission, in consultation with the secretary, the department of social and health services, and consumer, employer, and worker representatives, shall adopt rules to implement this section and to provide, beginning January 1, 2012, for a program of credentialing reciprocity to the extent required by this section

1 between home care aide and medical assistant certification and nursing  
2 assistant certification. By July 1, 2011, the secretary shall also  
3 adopt such rules as may be necessary to implement this section and the  
4 credentialing reciprocity program.

5 (b) Rules adopted under this section must be consistent with  
6 requirements under 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal  
7 social security act relating to state-approved competency evaluation  
8 programs for certified nurse aides.

9 (3) Beginning December 1, 2012, the secretary, in consultation with  
10 the commission, shall report annually by December 1st to the governor  
11 and the appropriate committees of the legislature on the progress made  
12 in achieving career advancement for certified home care aides and  
13 medical assistants into nursing practice.

14 **Sec. 4.** RCW 18.88A.030 and 1995 1st sp.s. c 18 s 52 are each  
15 amended to read as follows:

16 (1)(a) A nursing assistant may assist in the care of individuals as  
17 delegated by and under the direction and supervision of a licensed  
18 (registered) nurse or licensed practical nurse.

19 ((+2)) (b) A health care facility shall not assign a nursing  
20 assistant-registered to provide care until the nursing assistant-  
21 registered has demonstrated skills necessary to perform competently all  
22 assigned duties and responsibilities.

23 ((+3)) (c) Nothing in this chapter shall be construed to confer on  
24 a nursing assistant the authority to administer medication unless  
25 delegated as a specific nursing task pursuant to this chapter or to  
26 practice as a licensed (registered) nurse or licensed practical nurse  
27 as defined in chapter 18.79 RCW.

28 ((+4)) (2)(a) A nursing assistant employed in a nursing home must  
29 have successfully obtained certification through: (i) An approved  
30 training program and the competency evaluation within four months after  
31 the date of employment; or (ii) alternative training and the competency  
32 evaluation prior to employment.

33 (b) Certification is voluntary for nursing assistants working in  
34 health care facilities other than nursing homes unless otherwise  
35 required by state or federal law or regulation.

36 ((+5)) (3) The commission may adopt rules to implement the  
37 provisions of this chapter.

1       **Sec. 5.** RCW 18.88A.050 and 1991 c 16 s 6 are each amended to read  
2 as follows:

3       In addition to any other authority provided by law, the secretary  
4 has the authority to:

5       (1) Set all nursing assistant certification, registration, and  
6 renewal fees in accordance with RCW 43.70.250 and to collect and  
7 deposit all such fees in the health professions account established  
8 under RCW 43.70.320;

9       (2) Establish forms, procedures, and ~~((examinations))~~ the  
10 competency evaluation necessary to administer this chapter;

11       (3) Hire clerical, administrative, and investigative staff as  
12 needed to implement this chapter;

13       (4) Issue a nursing assistant registration to any applicant who has  
14 met the requirements for registration;

15       (5) After January 1, 1990, issue a nursing assistant certificate to  
16 any applicant who has met the ~~((education,))~~ training, competency  
17 evaluation, and conduct requirements for certification under this  
18 chapter;

19       (6) Maintain the official record for the department of all  
20 applicants and persons with registrations and certificates under this  
21 chapter;

22       (7) Exercise disciplinary authority as authorized in chapter 18.130  
23 RCW;

24       (8) Deny registration to any applicant who fails to meet  
25 requirement for registration as a nursing assistant;

26       (9) Deny certification to applicants who do not meet the  
27 ~~((education,))~~ training, competency evaluation, and conduct  
28 requirements for certification as a nursing assistant.

29       **Sec. 6.** RCW 18.88A.060 and 1994 sp.s. c 9 s 710 are each amended  
30 to read as follows:

31       In addition to any other authority provided by law, the commission  
32 may:

33       (1) Determine minimum nursing assistant education requirements and  
34 approve training programs;

35       (2) Prepare, grade, and administer, or determine the nature of, and  
36 supervise the grading and administration of, ~~((examinations of training~~  
37 ~~and))~~ the competency evaluation for applicants for nursing assistant

1 certification, using the same competency evaluation for all applicants,  
2 whether qualifying to take the competency evaluation under an approved  
3 training program or alternative training;

4 ~~(3) ((Determine whether alternative methods of training are~~  
5 ~~equivalent to approved training programs, and))~~ Establish forms((~~7~~))  
6 and procedures((~~7~~ and criteria)) for evaluation of an applicant's  
7 alternative training ~~((to determine the applicant's eligibility to take~~  
8 ~~any qualifying examination for certification))~~ under criteria adopted  
9 pursuant to section 3 of this act;

10 (4) Define and approve any experience requirement for nursing  
11 assistant certification;

12 (5) Adopt rules implementing a continuing competency evaluation  
13 program for nursing assistants; and

14 (6) Adopt rules to enable it to carry into effect the provisions of  
15 this chapter.

16 **Sec. 7.** RCW 18.88A.085 and 2007 c 361 s 9 are each amended to read  
17 as follows:

18 (1) After January 1, 1990, the secretary shall issue a nursing  
19 assistant certificate to any applicant who demonstrates to the  
20 secretary's satisfaction that the following requirements have been met:

21 (a) Successful completion of an approved training program or  
22 successful completion of ~~((alternate))~~ alternative training meeting  
23 established criteria ~~((approved))~~ adopted by the commission under  
24 section 3 of this act; and

25 (b) Successful completion of ~~((a))~~ the competency evaluation.

26 (2) ~~((The secretary may permit all or a portion of the training~~  
27 ~~hours earned under chapter 74.39A RCW to be applied toward~~  
28 ~~certification under this section.~~

29 ~~(3))~~ In addition, applicants shall be subject to the grounds for  
30 denial of certification under chapter 18.130 RCW.

31 **Sec. 8.** RCW 18.88A.090 and 1994 sp.s. c 9 s 713 are each amended  
32 to read as follows:

33 (1) ~~((The date and location of examinations shall be established by~~  
34 ~~the secretary. Applicants who have been found by the secretary to meet~~  
35 ~~the requirements for certification shall be scheduled for the next~~

1 ~~examination following the filing of the application. The secretary~~  
2 ~~shall establish by rule the examination application deadline.~~

3       ~~(2))~~ The commission shall examine each applicant, by a written or  
4 oral and a manual component of competency evaluation. ~~((Examinations))~~  
5 The competency evaluation shall be limited to the purpose of  
6 determining whether the applicant possesses the minimum skill and  
7 knowledge necessary to practice competently.

8       ~~((3) The examination papers, all grading of the papers, and the~~  
9 ~~grading of skills demonstration shall be preserved for a period of not~~  
10 ~~less than one year after the commission has made and published the~~  
11 ~~decisions. All examinations shall be conducted under fair and wholly~~  
12 ~~impartial methods.~~

13       ~~(4))~~ (2) Any applicant failing to make the required grade in the  
14 first ~~((examination))~~ competency evaluation may take up to three  
15 subsequent ~~((examinations))~~ competency evaluations as the applicant  
16 desires upon prepaying a fee determined by the secretary under RCW  
17 43.70.250 for each subsequent ~~((examination))~~ competency evaluation.  
18 Upon failing four ~~((examinations))~~ competency evaluations, the  
19 secretary may invalidate the original application and require such  
20 remedial education before the person may take future ~~((examinations))~~  
21 competency evaluations.

22       ~~((5))~~ The commission may approve ~~((an examination))~~ a competency  
23 evaluation prepared or administered by a private testing agency or  
24 association of licensing agencies for use by an applicant in meeting  
25 the credentialing requirements.

26       **Sec. 9.** RCW 18.88A.110 and 1991 c 16 s 13 are each amended to read  
27 as follows:

28       An applicant holding a credential in another state may be certified  
29 by endorsement to practice in this state without ~~((examination))~~ the  
30 competency evaluation if the secretary determines that the other  
31 state's credentialing standards are substantially equivalent to the  
32 standards in this state.

33       **Sec. 10.** RCW 18.88A.140 and 2003 c 140 s 3 are each amended to  
34 read as follows:

35       Nothing in this chapter may be construed to prohibit or restrict:

1 (1) The practice by an individual licensed, certified, or  
2 registered under the laws of this state and performing services within  
3 their authorized scope of practice;

4 (2) The practice by an individual employed by the government of the  
5 United States while engaged in the performance of duties prescribed by  
6 the laws of the United States;

7 (3) The practice by a person who is a regular student in an  
8 educational program approved by the secretary, and whose performance of  
9 services is pursuant to a regular course of instruction or assignments  
10 from an instructor and under the general supervision of the instructor;

11 (4) A nursing assistant, while employed as a personal aide as  
12 defined in RCW 74.39.007 or a long-term care worker as defined in  
13 chapter 74.39A RCW, from accepting direction from an individual who is  
14 self-directing (~~(their)~~) his or her care.

15 **Sec. 11.** RCW 18.88B.040 and 2009 c 580 s 15 are each amended to  
16 read as follows:

17 The following long-term care workers are not required to become a  
18 certified home care aide pursuant to this chapter.

19 (1) Registered nurses, licensed practical nurses, certified nursing  
20 assistants or persons who are in an approved training program for  
21 certified nursing assistants under chapter 18.88A RCW, medicare-  
22 certified home health aides, or other persons who hold a similar health  
23 credential, as determined by the secretary of health, or persons with  
24 special education training and an endorsement granted by the  
25 superintendent of public instruction, as described in RCW 28A.300.010,  
26 if the secretary of health determines that the circumstances do not  
27 require certification. Individuals exempted by this subsection may  
28 obtain certification as a home care aide from the department of health  
29 without fulfilling the training requirements in RCW 74.39A.073 but must  
30 successfully complete a certification examination pursuant to RCW  
31 18.88B.030.

32 (2) A person already employed as a long-term care worker prior to  
33 January 1, 2011, who completes all of his or her training requirements  
34 in effect as of the date he or she was hired, is not required to obtain  
35 certification. Individuals exempted by this subsection may obtain  
36 certification as a home care aide from the department of health without



1 fulfilling the training requirements in RCW 74.39A.073 but must  
2 successfully complete a certification examination pursuant to RCW  
3 18.88B.030.

4 (3) All long-term care workers employed by supported living  
5 providers are not required to obtain certification under this chapter.

6 (4) An individual provider caring only for his or her biological,  
7 step, or adoptive child or parent is not required to obtain  
8 certification under this chapter.

9 (5) Prior to June 30, 2014, a person hired as an individual  
10 provider who provides twenty hours or less of care for one person in  
11 any calendar month is not required to obtain certification under this  
12 chapter.

13 (6) A long-term care worker exempted by this section from the  
14 training requirements contained in RCW 74.39A.073 may not be prohibited  
15 from enrolling in training pursuant to that section.

16 (7) The department of health shall adopt rules by August 1, 2010,  
17 to implement this section.

18 NEW \_\_ SECTION. **Sec. 12.** RCW 18.88A.115 (Home care aide  
19 certification reciprocity) and 2009 c 580 s 16 & 2009 c 2 s 11  
20 (Initiative Measure No. 1029) are each repealed.

21 NEW SECTION. **Sec. 13.** If any part of this act is found by a  
22 federal agency to be in conflict with federal requirements, including  
23 requirements related to the medicare and medicaid programs under the  
24 federal social security act, that are a prescribed condition to the  
25 allocation of federal funds to the state, the conflicting part of this  
26 act is inoperative solely to the extent of the conflict and with  
27 respect to the agencies directly affected, and this finding does not  
28 affect the operation of the remainder of this act in its application to  
29 the agencies concerned. Rules adopted under this act must meet federal  
30 requirements, including requirements related to the medicare and  
31 medicaid programs under the federal social security act, that are a  
32 necessary condition to the receipt of federal funds by the state."

33 Correct the title.

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